



CMA S. Venkanna
Practicing Cost Accountant

REDEFINING EXEMPTION IN GST

At the time of introduction of GST in the country, CBIC issued Notification No. 12/17- CT dated 28.06.2017 with amendments, granting certain exemptions before charging GST in respect of services. In the said notification, there are 115 entries which also include certain services on which GST is chargeable if the value of service provided exceeds the specified limit.

Exemptions are classified as Absolute Exemption and Conditional are partial Exemption.

Some of the relevant part of Exemption from CGST on specified intra-State services is furnished below in respect of specified services:

In exercise of the powers conferred by sub-section (1) of Section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column 3 of the Table from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding Entry in Column 4 unless specified otherwise, subject to the relevant conditions as specified in the corresponding Entry in column 5 of the said Table.

There are more than 100 entries in the said notification granting exemptions to various services. Out of the total entries, there are some entries under which a specified services where a limit is fixed. GST is applicable only when the value is in excess of the specified limits.

The following are some of the entries where there are exemption limits are determined:

Sl.No.	Entry No.	Services	Limit
1	9	Services by Central Government, State Government, Union Territory or local authority	Rs.5,000
2	9D	Services relating to old age homes run by Central/ State Governments	Rs.25,000 per month
3	13	Renting for religious ceremonies Commercial Renting Community halls, kalyanamandapam, etc.	Rs.1,000 per day Rs. 10,000 per month. Rs.10,000 per day

4	21	GTA	Single Carriage=Rs.1500 Single Consignment= Rs.750
5	34	Banking Services –Credit Card/Debit Card Settlement	Rs.2000 single transaction
6	78	Services by an Artist	Rs.1,50,000
7	81	Right of Admission	Rs.500 per person
8	12	Rending of accommodation/rooms, etc.	Declared Tariff Rs.1,000
9	77	Charges for common use by un-incorporated body (RWA)	Rs.7,500 per month

In respect of the above specified services, exemption from GST applicable only when the charges are within specified limit indicated against each of the entry.

If the actual charges exceeds the specified limit, GST is applicable on full value for services. If the amount exceeds the limit, exemption would stand defeated and the whole amount is brought to tax. The same has been subsequently clarified by the Government in this context and also confirmed through the Advance Ruling by AAR.

However, in the Hon'ble High Court of Madras in the writ petition file two Resident Welfare Associations (Owners), dated 1.7.2021, the decision is in favour of the Owners Association granting exemption of the amount specified in the Entry No.77 for the amount of Rs. 7,500. In case the contribution is more than this specified limit, GST is applicable only to the amount in excess of Rs. 7,500.

The judgement has been delivered by the Hon'ble High Court taking into consideration, the interpretation of the exemption used the word "upto" vide Entry No.77 Clause (c) , an amount of Rs.7,500 per member for the common use of its members in a housing society or a residential complex.

In view of the judgement, only amount in excess of the amount would be taxable. Since the plain word "upto" defined an upper limit.

In the above judgement a reference is also made Entry No.78 in respect of services rendered by an Artist. Here too, the categorization of 'artist' is on the basis of the earning of the artist, one who charges less than Rs.1.50 lakhs and one who charges more.

The intention is clear, to exempt only such consideration, which is below Rs.1.50 lakhs. If the consideration exceeds Rs.1.50 lakhs by even a rupee, the artist would stand elevated to the next slab, losing the benefit of exemption.

In view of the above judgement, all other specified exemption limits in the said notification No.12/2017 dated 28.8.2017 will also be questionable. It results in a number of legal cases, taking into the binding nature of the decided cases in the High Court.

Some of the specified exemption limits which were allowed in the erstwhile Service Tax Rules is also retained in the said Notification at the same rates.

In view of the above, it is required to redefine all other exemptions of the said notification in order to have uniformity in the important taxation law of the country. Appropriate decision by the GST Council is most essential in this regard.

While the Threshold limit for Goods increased to Rs.40 lakhs, the threshold limit for Service Provider is still kept at Rs.20 lakhs only.

After introduction of GST in 2017, huge number of amendments have made to the provisions of GST Laws. However, there is no such changes in the exemptions granted through the said notification. After four years of GST experience in the country, it is right time to look at some of provisions where there are basic reliefs to the citizens of the country who are contributing to the revenue of the country.

It is emphasised that a relook is required and also redefine the definition of exemptions in one of the basic economic law of the country after a lapse of five years of introduction of GST in the country keeping in view the ease of living.